

REMARKS

This paper is responsive to the *Restriction and Election of Species Requirements* mailed October 26, 2005.

Applicant elects Species I, paperboard press-molded containers.

Applicant elects the invention of Group I, Claims 1-32, 49-110 and 156-165.

With respect to the elected claims, the following claims are specific to paperboard press-molded containers and are readable on the elected species:

Claims 28-32 and 50-95

With respect to the elected claims, the following claims are readable on non-elected species, only:

None

With respect to the elected claims, the following claims are generic and read on the elected species as well as the non-elected species (plastic container):

Claims 1-27, 49, 96-110 and 156-165

No claims are cancelled and rejoinder of claims should be considered upon allowance of a generic claim.

The restriction with respect to Groups II and III is traversed for reasons discussed below.

Group II, Claims 111-135, and Group III, Claims 136-155 and 166-188, have substantial overlap with Claim Group I. Claim 1 is representative of Claim Group I, Claim 111 is representative of Claim Group II and Claim 136 is representative of Claim Group III. These claims are reproduced in the table below.

Table of Representative Claims
For Claim Groups I, II and III

Claim 1, Group I	Claim 111, Group II	Claim 136, Group III
<p>A disposable servingware container comprising:</p> <ul style="list-style-type: none"> a generally planar bottom portion; a first annular transition portion extending upwardly and outwardly from the generally planar bottom portion; an optional sidewall portion extending upwardly and outwardly from the first annular transition portion; a second annular transition portion flaring outwardly with respect to the first annular transition portion; an outer flange portion extending outwardly with respect to the second annular transition portion defining generally the container perimeter having a characteristic diameter; and at least first and second generally planar peripheral tabs extending outwardly from the flange portion of the container generally beyond the container perimeter, the peripheral tabs being configured so as to define a first cross-tab dimension between their outer edges generally parallel to and of like extent with a corresponding transverse dimension across the perimeter of the container. 	<p>A generally planar paperboard blank suitable for press-forming into a disposable pressware container comprising:</p> <ul style="list-style-type: none"> a central portion defining generally a perimeter thereof having a characteristic diameter; at least first and second peripheral tabs extending outwardly from the central portion beyond the perimeter of the central portion, the peripheral tabs being configured so as to define a cross-tab dimension between their outer edges generally parallel to and of like extent with a corresponding transverse dimension across the perimeter of the blank. 	<p>A method of press-forming a paperboard blank into a disposable servingware container comprising:</p> <ul style="list-style-type: none"> (a) providing a generally planar paperboard blank which includes a central portion defining generally a perimeter thereof as well as at least a first and second peripheral tabs extending outwardly from the central portion beyond the perimeter of the central portion, the peripheral tabs being configured so as to define a first cross-tab dimension between their outer edges generally parallel to and of like extent with a corresponding transverse dimension across the paperboard blank perimeter; (b) transferring said paperboard blank to a die set while controlling its orientation utilizing said first and second peripheral tabs such that the paperboard blank is disposed in the die set in a predetermined orientation with respect thereto; and (c) press-forming said paperboard blank into a disposable container having a generally planar bottom portion; a first annular transition portion extending upwardly and outwardly from the generally planar bottom portion; an optional sidewall portion extending upwardly and outwardly from the first annular transition portion; a second annular transition portion flaring outwardly with respect to the first annular transition portion; an outer flange portion extending outwardly with respect to the second annular transition portion defining generally the container perimeter; and at least first and second generally planar peripheral tabs corresponding to the tabs of the paperboard blank extending outwardly from the flange portion of the container generally beyond the container perimeter.

It is readily appreciated from the Table that there is substantial overlap in the subject matter and indeed Claim 136 links all the Claim Groups. A search will necessarily be directed to subject matter of all the Claim Groups.

Rejoinder would be appropriate in any event, especially upon allowance of a generic claim in Group I.

The restriction is further traversed because Applicant is entitled to claim a reasonable number of species, in any event, provided that there is not an undue burden as to search and examination. Applicants respectfully request that the Restriction Requirement be reconsidered as it is not shown in the Office Action that a serious burden would be required to examine the pending claims of Inventions I, II and III, respectively, in the instant patent application. Specifically, M.P.E.P. § 803 provides:

If the search and examination of an application can be made without serious burden, the Examiner *must* examine it on the merits, even though it includes claims to distinct or independent inventions.

Thus, for a Restriction Requirement to be proper, the following two criteria must be satisfied: (1) the existence of independent and distinct inventions (35 U.S.C. § 121); and (2) that the search and examination of the entire application cannot be made without serious burden in the matter. *See* M.P.E.P. § 803. It is believed apparent from the similarity of the subject matter of the various claims that it would not be a serious burden to search and examine all of the pending claims together. Consequently, reconsideration and modification or withdrawal of the Restriction Requirement to this extent is requested; alternatively rejoinder of all claims upon allowance of a generic claim is warranted.

This response is believed timely. If an *Extension of Time* is required, please consider this paper a *Petition* therefor and charge our Deposit Account No. 50-0935.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M. W. Ferrell", written in a cursive style.

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